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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

CRUMBL LLC, a Utah Limited Liability
Company, CRUMBL IP, LLC, a Utah
Limited Liability Company, and CRUMBL
FRANCHISING, LLC, a Utah Limited
Liability Company,

Plaintiff,

v.

DIRTY DOUGH LLC, an Arizona Limited
Liability Company,

Defendant.

ANSWER TO COMPLAINT

Civil No. 2:22-cv-00318-DBP

Judge Dustin B. Pead

Dirty Dough LLC (“Defendant”) answers the allegations set forth in the Complaint for Trade Dress Infringement and Related Claims (“Complaint”) filed by plaintiff Crumble LLC and Crumble Franchising, LLC (“Plaintiff”) as follows:

NATURE OF ACTION

1. The allegations set forth in paragraph 1 in the Complaint assert legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

2. The allegations set forth in paragraph 2 in the Complaint are denied.

3. The allegations set forth in paragraph 3 in the Complaint assert legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

JURISDICTION AND VENUE

4. The allegations set forth in paragraph 4 in the Complaint assert legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

5. The allegations set forth in paragraph 5 in the Complaint assert legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

6. The allegations set forth in paragraph 6 in the Complaint assert legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

THE PARTIES

7. Defendant is without sufficient knowledge or information to admit or deny the allegations of paragraph 7 in the Complaint and therefore denies the same.

8. Defendant is without sufficient knowledge or information to admit or deny the allegations of paragraph 8 in the Complaint and therefore denies the same.

9. Defendant is without sufficient knowledge or information to admit or deny the allegations of paragraph 9 in the Complaint and therefore denies the same.

10. The allegations set forth in paragraph 10 in the Complaint are admitted.

GENERAL ALLEGATIONS

11. The allegations set forth in paragraph 11 in the Complaint are denied.

12. The allegations set forth in paragraph 12 in the Complaint are denied.

13. The allegations set forth in paragraph 13 in the Complaint are denied.

14. The allegations set forth in paragraph 14 in the Complaint are denied.

15. The allegations set forth in paragraph 15 in the Complaint are denied.

16. The allegations set forth in paragraph 16 in the Complaint are denied.

17. The allegations set forth in paragraph 17 in the Complaint assert legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

18. The allegations set forth in paragraph 18 in the Complaint are denied.

19. The allegations set forth in paragraph 19 in the Complaint are denied.

20. The allegations set forth in paragraph 20 in the Complaint are denied.
21. The allegations set forth in paragraph 21 in the Complaint are denied.
22. The allegations set forth in paragraph 22 in the Complaint are denied.
23. The allegations set forth in paragraph 23 in the Complaint are denied.
24. The allegations set forth in paragraph 24 in the Complaint are denied.
25. The allegations set forth in paragraph 25 in the Complaint are admitted.
26. The allegations set forth in paragraph 26 in the Complaint are denied.
27. The allegations set forth in paragraph 27 in the Complaint are denied.
28. The allegations set forth in paragraph 28 in the Complaint are denied.
29. The allegations set forth in paragraph 29 in the Complaint are denied.
30. The allegations set forth in paragraph 30 in the Complaint are denied.
31. The allegations set forth in paragraph 31 in the Complaint are denied.
32. The allegations set forth in paragraph 32 in the Complaint are denied.
33. The allegations set forth in paragraph 33 in the Complaint are denied.
34. The allegations set forth in paragraph 34 in the Complaint are denied.
35. The allegations set forth in paragraph 35 in the Complaint are denied.
36. The allegations set forth in paragraph 36 in the Complaint are denied.
37. The allegations set forth in paragraph 37 in the Complaint are denied.
38. The allegations set forth in paragraph 38 in the Complaint are denied.
39. The allegations set forth in paragraph 39 in the Complaint are denied.
40. The allegations set forth in paragraph 40 in the Complaint are admitted.

- 41. The allegations set forth in paragraph 41 in the Complaint are denied.
- 42. The allegations set forth in paragraph 42 in the Complaint are denied.
- 43. The allegations set forth in paragraph 43 in the Complaint are admitted.
- 44. The allegations set forth in paragraph 44 in the Complaint are denied.
- 45. The allegations set forth in paragraph 45 in the Complaint are denied.
- 46. The allegations set forth in paragraph 46 in the Complaint are denied.
- 47. The allegations set forth in paragraph 47 in the Complaint are denied.
- 48. The allegations set forth in paragraph 48 in the Complaint are denied.
- 49. The allegations set forth in paragraph 49 in the Complaint are denied.
- 50. The allegations set forth in paragraph 50 in the Complaint are denied.
- 51. The allegations set forth in paragraph 51 in the Complaint are denied.

FIRST CLAIM FOR RELIEF

**(Trade Dress Infringement, Unfair Competition, and False
Designation of Origin under § 43 of the Lanham Act, 15 U.S.C. § 1125(a))**

52. Defendant repeats, realleges, and incorporates each of the foregoing responses as if fully set forth herein.

- 53. The allegations set forth in paragraph 53 in the Complaint are denied.
- 54. The allegations set forth in paragraph 54 in the Complaint are denied.
- 55. The allegations set forth in paragraph 55 in the Complaint are denied.
- 56. The allegations set forth in paragraph 56 in the Complaint are denied.
- 57. The allegations set forth in paragraph 57 in the Complaint are denied.
- 58. The allegations set forth in paragraph 58 in the Complaint are denied.

- 59. The allegations set forth in paragraph 59 in the Complaint are denied.
- 60. The allegations set forth in paragraph 60 in the Complaint are denied.
- 61. The allegations set forth in paragraph 61 in the Complaint are denied.
- 62. The allegations set forth in paragraph 62 in the Complaint are denied.
- 63. The allegations set forth in paragraph 63 in the Complaint are denied.
- 64. The allegations set forth in paragraph 64 in the Complaint are denied.

SECOND CLAIM FOR RELIEF
(Utah Deceptive Trade Practices Act, U.S.A. §§ 13-11a-4)

65. Defendant repeats, realleges, and incorporates each of the foregoing responses as if fully set forth herein.

- 66. The allegations set forth in paragraph 66 in the Complaint are denied.
- 67. The allegations set forth in paragraph 67 in the Complaint are denied.
- 68. The allegations set forth in paragraph 68 in the Complaint are denied.
- 69. The allegations set forth in paragraph 69 in the Complaint are denied.
- 70. The allegations set forth in paragraph 70 in the Complaint are denied.

THIRD CLAIM FOR RELIEF
(Utah Unfair Competition Act, U.C.A. § 13-5a-101, *et seq.*)

71. Defendant repeats, realleges and incorporates each of the foregoing responses as if fully set forth herein.

- 72. The allegations set forth in paragraph 72 in the Complaint are denied.
- 73. The allegations set forth in paragraph 73 in the Complaint are denied.
- 74. The allegations set forth in paragraph 74 in the Complaint are denied.

- 75. The allegations set forth in paragraph 75 in the Complaint are denied.
- 76. The allegations set forth in paragraph 76 in the Complaint are denied.
- 77. The allegations set forth in paragraph 77 in the Complaint are denied.
- 78. The allegations set forth in paragraph 78 in the Complaint are denied.

FOURTH CLAIM FOR RELIEF
(Unjust Enrichment)

79. Defendant repeats, realleges and incorporates each of the foregoing responses as if fully set forth herein.

- 80. The allegation set forth in paragraph 80 in the Complaint are denied.
- 81. The allegations set forth in paragraph 81 in the Complaint are denied.
- 82. The allegations set forth in paragraph 82 in the Complaint are denied.

GENERAL ALLEGATIONS

Defendant denies any allegations in the Complaint not specifically admitted herein.

ANSWER TO PRAYER FOR RELIEF

Defendant denies that Plaintiff is entitled to any relief in this matter. Accordingly, Defendant asks that each of Plaintiff's claims be dismissed with prejudice and that the Court decline to grant Plaintiff any relief requested in its Prayer for Relief.

JURY DEMAND

Defendant requests a trial by jury of all issues so triable.

ADDITIONAL DEFENSES

FIRST DEFENSE (Failure to State a Claim)

The Complaint should be dismissed because it fails to state a claim upon which relief can be granted in law or in equity.

SECOND DEFENSE (Non-Infringement)

Defendant has done nothing likely to cause confusion, mistake, or confusion regarding sponsorship or affiliation with respect to Plaintiff or Plaintiff's products, as demonstrated by the differences between the Parties' respective marks and the use of other source identifying indicia of origin in connection with Defendant products.

THIRD DEFENSE (Functionality)

Plaintiff's purported trade dress rights identified in the Complaint are functional.

FOURTH DEFENSE (Genericness)

Plaintiff's purported trade dress and trademark rights identified in the Complaint are generic.

FIFTH DEFENSE (Non-distinctiveness)

Plaintiff's purported trade dress rights are non-distinct and lack secondary meaning.

SIXTH DEFENSE
(Invalidity)

U.S. Trademark Registration Nos. 5,855,051, 5,910,669, and 6,305,598 are invalid.

SEVENTH DEFENSE
(Unclean Hands)

Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

EIGHTH DEFENSE
(Invalidity)

U.S. Trademark Registration Nos. 5,855,051, 5,910,669, and 6,305,598 are invalid.

NINTH DEFENSE
(Fair Use)

Defendant's use of any of Plaintiff's purported trade dress or trademarks, if any, constitutes fair use.

TENTH DEFENSE

Defendant reserves the right to raise additional affirmative defenses which are not yet known, but which may become known through further discovery.

Dated July 13, 2022

BERG LAW, LLC

/s/ Jared E Berg
Jared E. Berg
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July 2022, I served a true and correct copy of the foregoing through the Court's electronic filing and delivery system on following:

Tamara L. Kapaloski
Case Collard
DORSEY & WHITNEY LLP
111 S. Main Street, Suite 2100
Salt Lake City, UT 84111

/s/ Julie A. Sorensen